

Howard M. Levine, OSB No. 800730
SUSSMAN SHANK LLP
1000 SW Broadway, Suite 1400
Portland, OR 97205-3089
Telephone: (503) 227-1111
Facsimile: (503) 248-0130
E-Mail: hlevine@sussmanshank.com

Attorneys for GP LLC

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re)	Case No. 18-34244-pcm11
)	
Christian S. Radabaugh, Sr.,)	[CORRECTED]
)	GP LLC's AMENDED SECOND MOTION
Debtor-in-Possession.)	TO DISMISS CHAPTER 11 CASE
)	
)	Hearing: November 21, 2019 at 9:30 a.m.
)	
)	
)	

Certification Of Compliance With LBR 7007-1(a)(1)(A)

Counsel to Plaintiff conferred in good faith with counsel for Debtor, Nicholas Henderson, to resolve this matter, but the parties were unable to do so.

MOTION

GP LLC ("GP") moves to dismiss this Chapter 11 case (the "Motion") with prejudice. In support of this Motion, GP respectfully represents as follows:

1. The Debtor filed its Chapter 11 case on December 7, 2018 (the "Petition Date").
2. Cause exists under 11 USC § 1112(b) to dismiss this case because, among other things:

- a. The Debtor has engaged in gross mismanagement of the estate in violation of 11 USC § 1112(b)(4)(B). The record in this case demonstrates, and additional evidence that will be adduced at the November 21, 2019 hearing on this motion will prove, that the Debtor

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CHAPTER 11 CASE

1 grossly mismanaged the estate by, among other things, repeatedly breaching his fiduciary duties,
2 filing false schedules, false statement of financial affairs, and false monthly operating reports,
3 and disregarding his debtor-in-possession fiduciary obligation to creditors and the Court;

4 b. The Debtor failed to comply with Court orders in violation of
5 § 1112(b)(4)(E), including violating the Stipulated Restraining Order (the “Restraining Order”)
6 [Dkt. No. 151];

7 c. The Debtor, in violation of § 1112(b)(4)(F) and (H), failed to timely
8 provide the Court and his creditors with accurate information about his assets, and failed to
9 initially file accurate bankruptcy schedules and the Statement of Financial Affairs. The Debtor
10 had to amend them twice to reveal previously undisclosed assets in response to questions by the
11 undersigned and the Office of the United States Trustee at the initial and the adjourned 341(a)
12 meeting;

13 d. The Debtor’s Plan of Liquidation Dated November 5, 2019 (the “Plan”) is
14 not confirmable; and

15 e. As argued by the Office of the U.S. Trustee in the U.S Trustee’s First
16 Amended Objection to Confirmation [Dkt. No. 280], the Debtor has no further need to confirm
17 the Plan. The Debtor has stated in his Disclosure Statement that he filed this case “to prevent the
18 repossession and sale of valuable cattle” and “[t]he Debtor has now sold all of his cattle.” “No
19 cattle remain.” (Dkt. No. 260, p. 5). Accordingly, the Debtor’s purpose in seeking bankruptcy
20 relief is now resolved and there is no reason for the Debtor to remain protected by Chapter 11.

21 3. The evidence already presented in this case, plus the additional evidence GP will
22 present at the hearing, justifies dismissal of this case with prejudice, barring the Debtor from
23 seeking or benefiting from relief under Title 11 for at least one year. Among other things, the
24 Debtor’s failure to make complete disclosures in his schedules and statement of financial affairs,
25 his inaccurate Rule 2015 Operating Reports, and his other failures to comply with the
26 Bankruptcy Code, justify a refiling bar. See *In re Fitt, LLC* (Bankr. D. Or. April 30, 2018; Letter

1 Opinion by Judge Trish Brown).

2 For the reasons set forth above and to be proven at a hearing, the Court should dismiss
3 this case with prejudice and impose a minimum one-year bar on refiling.

4 SUSSMAN SHANK LLP

5 /s/ *Howard M. Levine*

6 By _____
7 Howard M. Levine, OSB No. 800730
8 Attorneys for GP LLC

9 *24987-001[[CORRECTED] SECOND AMENDED MOTION TO DISMISS (FILED W/COURT ON 111519) (03316649);1
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1 CERTIFICATE OF SERVICE

2 I, Janine E. Hume declare as follows:

3 I am employed in the County of Multnomah, state of Oregon; I am over the age of
4 eighteen years and am not a party to this action; my business address is 1000 S.W. Broadway,
5 Suite 1400, Portland, Oregon 97205-3089, in said county and state.

6 I certify that on November 15, 2019, I served, **via first class mail**, a full and correct copy
7 of the foregoing **[CORRECTED] GP LLC's AMENDED SECOND MOTION TO DISMISS**
8 **CHAPTER 11 CASE** to the parties of record, addressed as follows:

9 Central Oregon Livestock Auction
10 3457 S.W. Hwy. 97
11 PO Box 29
Madras, OR 97741

12 ODR Bkcy
13 955 Center St., NE
Salem, OR 97301-2555

14 I also certify that on November 15, 2019, I served the above-referenced document(s) on
15 all ECF participants as indicated on the Court's Cm/ECF system.

16 I swear under penalty of perjury that the foregoing is true and correct to the best of my
17 knowledge, information, and belief.

18 Dated: November 15, 2019.

19 */s/ Janine E. Hume*

20 _____
21 Janine E. Hume, Legal Assistant